FILED

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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY RM DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. Juan Carlos MARTINEZ-Ochoa, Defendant.	Mag. Case No. '07 MJ 2962 COMPLAINT FOR VIOLATION OF Title 8, U.S.C., Section 1326 Deported Alien Found In the United States

The undersigned complainant being duly sworn states:

On or about December 21, 2007, within the Southern District of California, defendant Juan Carlos MARTINEZ-Ochoa, an alien, who previously had been excluded, deported ot removed from the United States to Honduras was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States code, section 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Senior Border Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 26th DAY OF DECEMBER 2007.

U.S. MAGISTRATE JUDGE

I, Senior Border Patrol Agent Michael Mikuski declare under penalty of Perjury, the following is true and correct:

PROBABLE CAUSE STATEMENT

The complainant states that this complaint is based upon the statements of the apprehending Border Patrol Agent G. Elliott, the defendant, Juan Carlos MARTINEZ-Ochoa, a native and citizen of Honduras was found and arrested on or about December 21, 2007 near Ocotillo, California.

At approximately 4:45 P.M. Agent Elliott encountered a group of six (6) individuals on County Highway S-2, north of Ocotillo California. After questioning the group, Agent Elliott determined they are all individuals of countries other than the United States and are here illegally in the United States. One individual, later identified as Juan Carlos MARTINEZ-Ochoa, claimed to be from the country of Honduras. MARTINEZ and the five (5) others were arrested and transported to the Imperial California Border Patrol Station for further questioning and processing.

During processing at the station, MARTINEZ' fingerprints were entered into the IDENT/ENFORCE/IAFIS system. It was determined that has been previously removed from the United States on December 21, 1995.

A further records check of MARTINEZ discovered he has an extensive Immigration and criminal history. Also revealed is that MARTINEZ is currently on Supervised Release for a previous 8 USC 1326 violation. Agent E. Vargas witnessed Agent Ahmed read MARTINEZ his rights per Miranda.

There is no evidence MARTINEZ has sought nor received permission from the Attorney General of the United States or the Secretary of the Department of Homeland Security to re-enter the United States after being deported

Executed on December 22, 2007 at 10:20 A.M.

____
Senior Border Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page, I find Probable cause to believe that the defendant named in this probable cause statement committed the offense on December 21, 2007 in violation of Title 8, United States Code 1326.

________________________________ _______________
Leo S. Papas. Date/Time
United States Magistrate Judge

I, Senior Border Patrol Agent Michael Mikuski declare under penalty of Perjury, the following is true and correct:

PROBABLE CAUSE STATEMENT

The complainant states that this complaint is based upon the statements of the apprehending Border Patrol Agent G. Elliott, the defendant, Juan Carlos MARTINEZ-Ochoa, a native and citizen of Honduras was found and arrested on or about December 21, 2007 near Ocotillo, California.

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Senior Border Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page, I find Probable cause to believe that the defendant named in this probable cause statement committed the offense on December 21, 2007 in violation of Title 8, United States Code 1326.

Leo S. Papas.
United States Magistrate Judge

3:40 PM 12/22/07
Date/Time